No. _____ (1)

Supreme Court, U.S.

In The Supreme Court Of The United States

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OFFICE OF THE CLERK

OCTOBER TERM, 1997

WILLIAM STEVE REA,

Petitioner,

vs.

UNITED STATES OF AMERICA

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

RECEIVED
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SUPREME COURT, U.S.

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45 pp

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QUESTION PRESENTED

The following question is presented by the Petition for Writ of Certiorari:

1. Whether the District Court's admission into evidence of government photographs taken from a videotape, where the videotape itself had been lost or destroyed and was unavailable to the defendant was fundamentally unfair to the defendant.

TABLE OF CONTENTS

Page

QUESTION PRESENTED i

TABLE OF CASES AND AUTHORITIES iv

OPINIONS BELOW 1

JURISDICTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 3

STATEMENT OF THE CASE 4

A. THE PARTIES 4

B. THE ACTION BELOW 4

1. The Indictment 4

2. The Trial 4

3. Rea's Appeal 5

STATEMENT OF FACTS 5

REASONS FOR GRANTING THIS PETITION 8

CONCLUSION 14

Page

APPENDIX:

OPINION, U.S. COURT OF APPEALS, FOR THE FOURTH CIRCUIT, UNPUBLISHED, RECORD NO. 96-4962 16

JUDGMENT ORDER, U.S. DISTRICT COURT, WESTERN DISTRICT OF VIRGINIA (Lynchburg), DATED NOVEMBER 27, 1996 CASE NO. 96-0021-L 22

TABLE OF CASES AND AUTHORITIES

CASES:

Arizona v. Youngblood, 488 U.S. 51 (1988).....10-12

California v. Trombetta, 467 U.S. 479, 488 (1984).....11-12

State v. Perez, 687 P. 2d 1214 (Arz. 1984).... 11

United States v. Ebens, 8 F. 2d 1422 (6th Cir. 1986)..... 11

United States v. Robinson, 757 F. 2d 872, (6th Cir. 1983); aff'd. 763 F. 2d. 774 (6th Cir. 1985). 2,10-12

United States v. Saunders, 954 F. 2d 227 (4th Cir. 1992)..... 10

STATUTES:

18 U.S.C. §1708.....4

18 U.S.C. §2 & §1341.....4

PETITION FOR WRIT OF CERTIORARI

William Steve Rea respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case, reproduced in the Appendix at Page 16 herein.

OPINIONS BELOW

The opinion of United States District Court for the Western District of Virginia at Lynchburg, Case Number 96-00021-L, is unreported and reproduced in the Appendix. Subsequent to his conviction, Rea appeals this ruling to the United States Court of Appeal for the Fourth Circuit, but his claims were rejected and his convictions were affirmed in an unpublished decision, United States of America v. William Steve Rea, Case No. 96-4962, reproduced in Appendix, herein, at page 22. (No rehearing was requested.)

JURISDICTION OF THIS COURT

The jurisdiction of this Court is invoked under Article 3, Section 2 of the Constitution of the United States and Rules 10,12 and 13 of the Supreme Court Rules and Title 28 U.S.C. Section 1254. The decision of the Fourth Circuit Court of appeals herein as to suppression or admissibility of the photographs in question conflicts with United States v. Robinson, 757 F2d 872 (6th Circuit 1983), affirmed 763 F.2d 778 (6th Circuit 1985), and thereby necessitates this Court's scruitiny under Rule 10(a).

The judgment of the United States District Court, Western District of Virginia was entered November 27, 1996, and a timely petition for appeal to the United States Court of Appeals for the Fourth Circuit was denied December 24, 1997.

CONSTITUTIONAL STATUTORY PROVISIONS AND RULES OF COURT INVOLVED

Federal Rules of Evidence, No. 1001(4) **Definitions**

For the purpose of this article the following definitions are applicable:

(4) Duplicate. a "duplicate" is a conterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduces the original.

Federal Rules of Evidence, No. 1003 **Admissibility of Duplicates.**

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

STATEMENT OF THE CASE

A. THE PARTIES

Petitioner is William Steve Rea (Rea).

Respondent is the United States of America.

B. THE ACTION BELOW

1. The Indictment

Rea was the subject of a three-count indictment filed against him on March 22, 1996, by a Grand Jury for the Western District of Virginia, charging him with theft or receipt of stolen mail matter in violation of 18 U.S.C. §1708; for theft or receipt of stolen mail matter in violation of 18 U.S.C. §1708; for mail fraud, aiding and abetting, in violation of 18 U.S.C. §2 and §1341.

2. The Trial

Prior to trial, Rea advised the Government that he objected to introduction of still photographs selected from a videotape taken from the Central Fidelity Bank ATM machine after the videotape was lost from the government control. The trial court denied Rea's motion, finding that the underlying videotape was not intentionally lost or secreted by the government.

3. Rea's Appeal

Rea timely noted his appeal to the United States Court of Appeals for the Fourth Circuit. In an unpublished opinion, the Court of Appeals reviewed the district court's legal conclusion regarding abuse of discretion in the convictions on two counts of possession of stolen mail. The Court of Appeals found that the district court did not err in admitting the photographs made from a videotape of an ATM withdrawal. The Court of Appeals further found that the district court did not err in admitting a letter into evidence and affirmed the convictions. Rea did not request a rehearing, but instead perfected appeal to the United States Supreme Court.

STATEMENT OF FACTS

Many of the facts in the United States v. William Steve Rea were not significantly in dispute - it was undisputed that Delores Helton Murphree, hereinafter "Helton Murphree", was involved in credit card fraud. The only issue was whether Rea was also involved.

The government's case can be summarized as follows: a series of witnesses testified that they were victims of credit card theft or fraud, in conjunction with Postal employees who worked in a supervisory capacity

over the Petitioner. The Postal workers testified primarily with respect to Rea's work schedule and access to the mail. The government also presented a series of forensic witnesses regarding fingerprint and handwriting analysis of documents obtained in their investigation and their connection to Delores Helton Murphree and/or Rea. Finally, Delores Helton Murphree testified as to her involvement with the postal theft and her relationship with Rea. Ms. Helton Murphree detailed her role as a co-conspirator in the theft and use of credit cards, which testimony sought to corroborate the physical evidence linked to her. She alleged Rea (during the time she was his girlfriend), had been responsible for her involvement in the credit card theft and usage, and that he had obtained some or all of the cards in question during his employment as a postal carrier.

The above facts presented by the government were subject of extensive debate between the United States and Rea as to their significance and import to the case at bar. However, Rea does not extensively analyze the testimony of any of the above Government or defense witnesses because the substance of their testimony does not relate to the issues before this Court on Appeal.

The testimony of Ray Tucker and Dennis Arner offered by the government, is germane to the issue of admissibility of the photographs taken from the Central Fidelity Bank ATM videotape, as to Count 2, which purported to show a suspect committing bank fraud. Mr. Tucker testified that he had taken possession of the videotape of the suspect transaction at Central Fidelity Bank, August 16, 1994. Mr. Tucker was a bank card security investigator for Central Fidelity Bank. He testified that he took possession of the videotape of this ATM transaction and put it in the hands of Postal Inspector Dennis Arner. He then testified that still photographs had been made from the videotape, to which the Petitioner objected. Ray Tucker testified that he took individual photographs from the videotape by "trying to shoot" still photographs from the three plus minutes of videotape.

Mr. Tucker hand-delivered the videotape and the stills to Postal Inspector Dennis Arner, who took them into the Government's possession. The videotape, from which the stills were taken, however, was returned by Inspector Arner to Central Fidelity Bank, who then destroyed or lost the tape in their security department. The witness testified he took stills consisting of twelve selected photographs

which were "taken every two seconds". Apparently, either stills were not shot "every two seconds" for the entire three minutes of the videotape, or else were never developed. Mr. Tucker had little independent recollection of the activity of the individual on film during the other portions of the three minutes, what vehicles were observed in the background. He offered no evidence as to whether any passengers or other parties were present in the postal service vehicle in the photograph, or any other details of the three minute tape.

Inspector Arner testified that he had taken the videotape in his possession as evidence during his investigation. He acknowledged he returned it to Central Fidelity Bank sometime thereafter for unknown reasons. He testified that he did not knowingly or intentionally misplace, lose or conceal the underlying videotape prior to trial.

REASONS FOR GRANTING CERTIORARI:

The evidence in question consisted of a Central Fidelity Bank videotape which had been turned over to agents of the government by Central Fidelity Bank:

> The video camera tape of the transaction was turned over to a Postal Inspector by the

> bank. The Inspector sent the tape to the crime lab, which made still photos for the videotape. The lab then returned the tape and the still photographs to the Inspector who in turn returned the tape to Central Fidelity Bank with the request that the bank hold the tape because it may be needed again. (Government's Answer to Petitioner's Motion in Limine.)

Clearly, the Government bears responsibility for the loss of the videotape after the videotape has come into its possession. The government maintains "...there is absolutely no evidence whatsoever of negligence on behalf of the United States...at the absolute worst its inadvertent by the Bank." Had the videotape and still photographs never come into the government's possession, the inadvertent loss by Central Fidelity Bank could be overlooked. However, once the government comes into possession of physical evidence which it intends to offer at trial, the government is responsible for preserving that evidence. The government was negligent in returning physical evidence to a private party who was a non-governmental agent without instructions to preserve the

evidence. As a consequence, the government cannot hide behind the inadvertence or negligence of Central Fidelity Bank when the government's own conduct was responsible for the ultimate loss of the videotape.

This case, the Petitioner respectfully submits, is controlled by U.S. v. Robinson and its progeny. U.S. v. Robinson, 757 F. 2d 872 (Sixth Circuit 1983), affirmed 763 F. 2d 778 (Sixth Circuit 1985). In Robinson, the court suppressed the transcript of a master tape when the original was inaudible. The prosecution relies upon Arizona v. Youngblood, 488 U.S. 51 (1988) and U.S. v. Saunders, 954 F. 2d 227 (Fourth Circuit 1992), in support of its position that the still photographs should have been admitted. Conversely, the Fourth Circuit applied a "fairness" test to the facts and does not address the Robinson context. The prosecutor's emphasis on Youngblood and Saunders is misplaced. Youngblood and Saunders deal with due process claims whereby Petitioner sought dismissal of charges as a result of due process violations.

Petitioner Rea, however, does not seek dismissal of Count #2 of the indictment and did not request dismissal of the charge at trial. The Petitioner only sought to prohibit introduction into evidence of the still photographs because

of the government's loss of videotape evidence. The only other remedy sought by the Petitioner to cure, or attempt to cure, the prejudice resulting from the introduction of the stills was a curative instruction to the jury, citing State v. Perez, 687 P.2d 1214 (Ariz. 1984); this instruction was refused by the Court as argumentative. The government then relied upon the photographs as a cornerstone to its case in closing arguments, both as to Count 2 and then bootstrapping Count 2 to Count 1 to bolster its case on both charges.

U.S. v. Robinson and U.S. v. Ebens, 8 F.2d 1422 (Sixth Circuit, 1986) set forth standards for admissibility of evidence in similar circumstances. In Ebens, the Court held that entire tapes and not partial tapes must be allowed into evidence if requested by the Petitioner. Here, the Petitioner requested the entire videotape and not what was, in essence, an edited, excerpted and frozen portion of the videotape. Whether or not the evidence in the actual videotape - over three minutes worth of photographic evidence of the transaction in question was exculpatory, or could have been exculpatory, as in Youngblood, is not the question. Trombetta from this Court, we submit, is more instructive under this set of facts - the Government is required to

preserve evidence "that might be expected to play a significant role in the suspect's defense". California v. Trombetta, 467 U.S. 479, 488 (1989). Obviously, the Petitioner cannot discern what portion of the tape would play a "significant role". It is apparent from the trial issues raised by the Petitioner, such as the indication of a second individual being present, that the full tape would have been significant to the defense.

The Fourth Circuit here acknowledged the standard under Federal Rule 1003 as whether it would be "unfair under the circumstances..." to admit the still photographs in page 3 of United States v. Rea, No. 96-4962 (Fourth Cir., December 24, 1997). The Fourth Circuit did not consider the Youngblood or Robinson cases in reaching its conclusion.

The Petitioner is not relying on a due process error by the government to raise a "what if" argument about the potentially exculpatory evidence on videotape. Rather, the argument rests on the prejudicial effect of the government being allowed to benefit from selected, sanitized evidence in its favor, when it has only preserved twelve photographs from a three plus minute videotape. (Indeed, a due process violation has apparently resulted, but the remedy sought is

not dismissal of the charge.) The appropriate remedy under this set of facts is suppression of the still photographs there would have been a fundamentally fair resolution. This is a sufficiently balanced remedy to allow the government to proceed with prosecution of the Crouch larceny Count 2 circumstantially, without using the still photographs. The Government had physical evidence and circumstantial evidence, which they connected to the Petitioner to support their larceny charge. The government should have been required to proceed without the videotape stills, accordingly, balancing the interest of the parties, and the Court in preserving a fair trial to each.

The Fourth Circuit Opinion in the instant case overlooked the governments role in the loss of the videotape ("the videotape subsequently was lost..." p. 2 of the United States v. Rea, No. 96-4962 (Fourth Circuit, December 24, 1997). The Opinion suggested that no "unfairness" resulted from admissions of the still photographs (Id p. 3). The inability of the Petitioner to present evidence from the underlying videotape and create his own still photographs was unfair.

The Petitioner respectfully submits that the inclusion of the photographs was indeed unfair, which error

requires reversal of the conviction on both counts, as the error in Count 2 inevitably affected the jury's deliberation on the first Count.

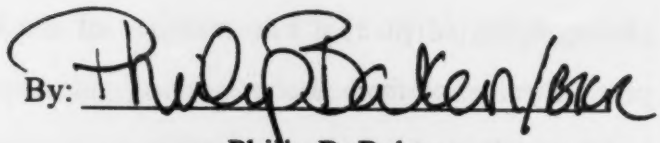
CONCLUSION

Petitioner respectfully requests that he be allowed to present oral argument in this matter. For reasons stated herein and at trial, the Petitioner respectfully request the opinion of the District Court (denying the admission of the still photographs when the underlying videotape was lost) be reversed, and insofar as the introduction of the photographs may have affected the jury verdict on Count 2, that the case be remanded for a new trial, if the Government be so advised.

Respectfully submitted,

WILLIAM STEVE REA,

Petitioner

By: 

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UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v. No. 96-4962

WILLIAM STEVE REA,

Defendant-Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Lynchburg, Samuel G. Wilson, Chief District Judge (CR-96-21-L)

Submitted: December 9, 1997

Decided: December 24, 1997

Before WIDENER, HALL, and HAMILTON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Philip B. Baker, JOSEPH A. SANZONE ASSOCIATES, P.C., Lynchburg, Virginia, for Appellant, Robert P. Crouch, Jr., United States Attorney, Thomas L. Eckert, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

William Steve Rea appeals his convictions on two counts of possession of stolen mail, 18 U.S.C.A. §1708 (est Supp. 1997). On appeal, Rea contests two of the district court's evidentiary rulings. We affirm.

I.

Rea was a postal carrier who stole a number of credit cards and automated teller machine (ATM) cards that the issuers of those cards recently had placed in the mail. Rea and his girlfriend, Leola Helton Murphree, used the cards to buy merchandise or to obtain cash, then discarded the cards. Among the cards stolen were those issued to L. Thomas Barber and Donna Crouch. Rea used the Barber card to purchase goods and the Crouch ATM card to obtain $100 in cash.

II

The Crouch incident came to light when she complained to her bank that her bank statement reflected an ATM withdrawal that she had not made. In fact, Crouch never received the ATM card, which had been mailed to the bank branch that she patronized. A videotape of the transaction was located, and still photographs were made from the videotape. The videotape subsequently was lost. At trial, the photographs were introduced into evidence over Rea's objections. A postal employee identified Rea as the person making the withdrawal.

Rea contends that the district court erred when it admitted the photographs. He asserts that his defense was prejudiced because the jury should have seen the entire tape, instead of only twelve photographs selected by the prosecution. We review the district court's evidentiary rulings for an abuse of discretion. *See United States v.*

Moore, 27 F.3d 969, 974 (4th Cir. 1994). A still photographic image made from a videotape is a duplicate within the meaning of Fed. R. Evid. 1001(4). *See United States v. Perry*, 925 F.2d 1077, 1082 (8th Cir. 1991). As such, still photographs are admissible unless there is a

genuine question as to the authenticity of the original or it would be unfair under the circumstances to admit the photographs instead of the original. Fed. R. Evid. 1003. Authenticity of the original videotape is not at issue in this case. And we discern no unfairness in admitting the photographs. Had the entire videotape been introduced, the prosecution would have focused on those portions tending to prove that Rea was the person using the Crouch card. This is precisely what the prosecution accomplished by using the still photographs.

Additionally, even if still photographs are not duplicates of the videotape, they constitute "other evidence"

of its contents. Because there is no suggestion that the videotape was lost or destroyed in bad faith, the still photographs were admissible. *See* Fed. R. Evid. 1004(1).

III

Rea also contends that the district court incorrectly ruled that the defense could not introduce into evidence a letter written by Milo Helton, Murphree's former husband, to Rea's mother. In the letter, Helton allegedly threatened to expose Rea's wrongdoing unless Rea paid Helton for his

silence. Murphree was a key prosecution witness, and defense counsel hoped to introduce the letter in an attempt to show her complicity in Helton's scheme.

The district court refused to permit the introduction of the letter, but allowed defense counsel to inquire of Murphree whether she knew about the letter and to ask her questions relating to any prejudice or bias. The district court's ruling was not an abuse of discretion. There was no

evidence tying Murphree to the letter or to Helton's demand for money. The letter was irrelevant and inadmissible, as the district court found.

IV

We accordingly affirm the convictions. We dispense with oral argument because the facts and legal contentions are adequately set forth in the materials before the court and argument would not aid the decisional process.

AFFIRMED

AO 245b (Rev. 3/95) Sheet 1 Judgment in a Criminal Case

UNITED STATES DISTRICT COURT

Western District of Virginia

Judgment in a Criminal Case

(For Offenses Committed on or After November 1, 1987)

Case Number: 6:96CR70021-001

ENTERED: *December 2, 1996*

Philip B. Baker, Esq.

Defendant's Attorney

UNITED STATES OF AMERICA

v.

WILLIAM STEVE REA

THE DEFENDANT:

___ pleaded guilty to count(s)

___ pleaded nolo contendere to count(s) which was accepted by the court

__X__ was found guilty on count(s) **One (1) and Two (2)** after a plea of not guilty.

Title & Section:	**18 U.S.C. §1708**
	18 U.S.C. §1708
Nature of Offense:	**Receipt of Stolen Mail**

Receipt of Stolen Mail

Date Offense Concluded: **01/06/1992**

08/16/1994

Count Number(s): **One (1)**

Two (2)

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

__ The defendant has been found not guilty on count(s)

X Count(s) Three (3) is dismissed on the Motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: **226-78-2014**

Date of Imposition of Judgment: **11/27/1996**

Defendant's Date of Birth: **01/04/61**

Defendant's USM No.: **06215-084**

Defendant's Residence Address:

8108 Timberlake Road, Apt. 158

Lynchburg, VA 24502

Defendant's Mailing Address:

8108 Timberlake Road, Apt. 158

Lynchburg, VA 24502

(Samuel G. Wilson)

Signature of Judicial Officer

Honorable Samuel G. Wilson

United States District Judge

Name and Title of Judicial Officer

11/27/96

A TRUE COPY, TESTE:

MORGAN E. SCOTT, JR., CLERK

By: (J. Larabee, Deputy Clerk)

AO 245B (Rev. 3/95) Sheet 2 - Imprisonment

Judgment Page 2 of 6

DEFENDANT: **William Steve Rea**

CASE NUMBER: **6:95CR70084-001**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **12 month(s) + 1 day**

(12 months + 1 day as to Count 1 and 12 months + 1 day as to Count 2 - to run concurrently)

___ The court makes the following recommendations to the Bureau of Prisons:

___ The defendant is remanded to the custody of the United States Marshal.

___ The defendant shall surrender to the United States Marshal for this district:

____ at _____ a.m./p.m. on _____

____ as notified by the United States Marshal.

X The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

___ before 2 p.m. on _____.

X as notified by the United States Marshal.

__ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

_____.

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____

UNITED STATES MARSHAL

By: _____

Deputy U.S. Marshal

DEFENDANT: **WILLIAM STEVE REA**

CASE NUMBER: **6:96CR70021-001**

SUPERVISED RELEASE:

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years(s). (3 years as to Count 1 and 3 years as to Count 2 to run concurrently).

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to

one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

___ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

_X_ The defendant shall not possess a firearm as defined in 18 U.S.C. §921. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

See special Conditions of Supervision - Sheet 3.01

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) the defendant shall support his or her dependents and meet other family responsibilities;
5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
7) the defendant shall refrain from excessive use of alcohol;
8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate

with any person convicted of a felony unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

1) The defendant shall pay any special assessment/restitution that is imposed by this judgment that remains unpaid upon his release from incarceration.
2) The defendant shall provide the probation officer with access to any requested financial information.
3) The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless the defendant is in compliance with the installment payment schedule.
4) The defendant shall participate in a program of testing and treatment for substance abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.
5) The defendant shall live in a residence free of firearms and destructive devices.
6) The defendant shall submit to warrantless search and seizure of person and property as directed by the probation officer, to determine whether the defendant is in possession of illegal controlled substances and firearms.

DEFENDANT: **WILLIAM STEVE REA**

CASE NUMBER: 6:96CR70021-001

CRIMINAL MONETARY PENALITIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

Totals:

Assessment: $100.00

Fine: $

Restitution: $3,264.71

___ If applicable, restitution amount ordered pursuant to plea agreement. . . . . $_____

FINE

The above fine includes costs of incarceration and/or supervision in the amount of $_____.

The defendant shall pay interest on any fine of more than $2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g).

____ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

____ The interest requirement is waived.

____ The interest requirement is modified as follows:

RESTITUTION

___ The determination of restitution is deferred in a case brought under Chapters 109A, 110, 110A and 113A of Title 18 for offenses committed on or after 09/13/1994, until _____. An Amended Judgment in a Criminal Case will be entered after such determination.

_X_ The defendant shall make restitution to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below.

Name of Payee: Central Fidelity VISA, c/o Ray Tucker

****Total Amount of Loss:**

Amount of Restitution Ordered: $1,983.73

Priority Order or Percentage of Payment:

Name of Payee: AT&T VISA, c/o James Purks

****Total Amount of Loss:**

Amount of Restitution Ordered: $561.87

Priority Order or Percentage of Payment:

Name of Payee: Discover Card, Greenwood Trust Co., c/o Jennifer Hall

****Total Amount of Loss:**

Amount of Restitution Ordered: $719.11

Priority Order or Percentage of Payment:

Totals: **$3,264.71**

**Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994.

Judgment Sheet 5.01

DEFENDANT: **WILLIAM STEVE REA**

CASE NUMBER: **6:96CR70021-001**

RESTITUTION

Name of Payee	Amount of Restitution
Central Fidelity Visa c/o Ray Tucker 219 E. Broad Street Richmond, VA 23241	$1,983.73
AT&T VISA	$561.87

c/o James Purks
3033 Canton Bridge Rd.
Oakton, VA 22185

Discover Card, Greenwood Trust Co. 719.11
c/o Jennifer Hall
Security Dept.
12 Reeds Way
New Castle, Delaware 19720

Total: $3,264.71

AO245B (Rev. 3/95) Sheet 5, Part B - Criminal Monetary Penalties Judgment Page 5 of 6

DEFENDANT: WILLIAM STEVE REA

CASE NUMBER: 6:96CR70021-001

SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

A _X_ in full immediately; or

B ___ $_____ immediately, balance due (in accordance with C, D, or E); or

C ___ not later than _____; or

D ___ in installments to commence _____ day(s) after the date of this judgment. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. probation officer shall pursue collection of the amount due, and shall request the court to establish a payment schedule if appropriate; or

E ___ in _____ (*e.g. equal, weekly, monthly, quarterly*) installments of $_____ over a period of _____ year(s) to commence _____ day(s) after the date of this judgment.

The National Fine Center will credit the defendant for all payments previously made toward any criminal monetary penalties imposed. Special instructions regarding the payment of criminal monetary penalties:

Restitution is to be made payable to:

Clerk, U.S. District Court

P.O. Box 1234

Roanoke, VA 24006

____ The defendant shall pay the cost of prosecution.

____ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States Courts National Fine Center, Administrative Office of the United States Courts, Washington, DC 20544, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If the National Fine Center is not operating in this district, all criminal monetary penalty payments are to be made as directed by the court, the probation officer, or the United States attorney.

AO 245B (Rev. 3/95) Sheet 6 - Statement of Reasons

DEFENDANT: WILLIAM STEVE REA

CASE NUMBER: 6:96CR70021-001

STATEMENTOF REASONS

___ The court adopts the factual findings and guideline application in the presentence report.

OR

_X_ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Reduced pursuant to amount of loss.

Guideline Range Determined by the Court:

Total Offense Level: 13

Criminal History Category: I

Imprisonment Range: 12 to 18 months

Supervised Release Range: 2 to 3 years

Fine Range: $3,000.00 to $30,000.00

_X_ Fine waived or below the guideline range because of inability to pay.

Total Amount of Restitution: $_____

___ Restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of restitution order outweighs the need to

provide restitution to any victims, pursuant to 18 U.S.C. §3663(d).

___ For offenses that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.

___ Partial restitution is ordered for the following reason(s):

_X_ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

___ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

___ The sentence departs from the guideline range:

___ upon motion of the government, as a result of defendant's substantial assistance.

___ for the following specific reasons